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Atari Online News, Etc.  
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->From the Editor's Keyboard           "Saying it like it is!"
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It's been one of those weeks! The week started off slowly with the MLK Day holiday - you know, another one of those "fake" holidays where most people who got the day off to reflect on the teachings of Martin Luther King are government employees! Talk about oxymorons! Then I took off yesterday to bring one of my dogs to the vet to get his teeth cleaned and nails cut. These are types of things that required him to be knocked out for the day, so we wanted to be available when he awoke. My wife and our other dog felt like they were on a holiday with all of the peace and quiet without the other dog around! Me, I missed the big lug! So, the work week seemed short, but dragged somewhat - oh well. It was busy nonetheless.

We had a small blast of winter last weekend, but the week turned out to be spring-like and melted what little snow we had. So far, I really cannot complain about the lackluster winter we've had so far (knock on wood!).

Microsoft is still running into problems these days! The antitrust case just won't seem to go away. Now (again??), AOL's Netscape is suing them, or jumping on the bandwagon. We'll see where that leads. And, to add to their woes, the Xbox is doing a job on profits due to Microsoft's marketing plans so far. Losing money is something I'm sure Bill Gates is not used to seeing!

Well, I could ramble on with a number of topics that we've included this week, but I'll let you formulate your own opinions. Interesting stuff this week that makes you think about what's going on in the world of technology these days - and how it affects everyday people. Hope you enjoy them.

Until next time...

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HighWire Update!

Version 0.02 of the html Rendering Engine HighWire is now available for download.

There have been great improvements in both speed and stability recently. Several little annoying GEM interface problems have been eliminated. Table support has been expanded, however it is not yet finished. We also have a French version of the documentation available with the help of ProToS from the Arcadia Crew. Hopefully this release will silence some of the detractors who have been saying our task is impossible. Our goal is achievable, it will just take time and your support. We can always use more programmers and support on the documentation side of the project always is a critical need. Translation support for more languages would be a great addition to the project as well.

HighWire Developers Group  
<http://highwire.atari-users.net>

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PEOPLE ARE TALKING  
compiled by Joe Mirando  
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Hidi ho friends and neighbors. Another incredibly long week has come and gone, and I again find myself wondering what little bits of my mind might be interesting to you. Not much to choose from, I'm afraid. I do want to talk a little bit about something that's beginning to trouble me though.

While shopping for Christmas presents this past year, I noticed something that bothered me. No matter which store I went to, I saw the same offerings. Oh, there were different brand names and different colors and styles to choose from, but it became clear to me that, more and more, it's becoming a "cookie cutter" world.

This had been going on for a very long time. Perhaps it's been going on since people decided that mass production was a good idea. Mass production isn't a bad thing but like anything with consequences, it should not be taken for granted or left to grow unchecked.

What we have done is to create a system where variations on a theme pass for innovation and you only make what you know that you can sell.

We seemed to be turning away from the "same old same old" a couple of years ago, and "specialty" stores were easy to find. Shops The Nature Store and The Science Store, despite their unimaginative names, were places where you could find out-or-the-ordinary things.

Both of the stores that I just mentioned have since withdrawn from my area and those that have tried to fill the void are only marginally better than the large stores as far as originality is concerned.

Now I'm not advocating a return to a time when everyone made what they needed and did without anything else. Heck, I'm not even saying that we should avoid the cookie-cutter stuff. Just that we should be aware of it and retain the ability to appreciate something truly special when we do see it. Of course, I leave it to you to decide what "special" is.

And now on to the UseNet Stuff.

From the comp.sys.atari.st NewsGroup  
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Tony Cianfaglione asks about using a Mac monitor on an Atari:

"Can Mario Becroft's VGA adapter be used with a Mac monitor if a conversion vga2mac cable is used? Anyone try this?"

Hallvard Tangeraas tells Tony:

"I've been wondering about the same thing as my Mac has an Apple  
"Multiple scan 15" monitor. But I guess it all depends on the horizontal  
and vertical capabilities....

What exactly is the frequency output of the Atari ST? In both mono  
("high" mode") and colour ("low" and medium" modes)?"

Mark Duckworth asks Hallvard:

"The Mac monitor isn't anything more than a relabeled VGA monitor with  
a weird connector on it? :) I don't see why it would not work. I  
have a monitor here that isn't even multisync and it works fine in ST  
low medium and high. The same principles behind mario becroft's vga  
adapter for st's (not the galaxy card, but just the adapter). You'd  
just need some sort of adapter for the mac video cable."

Hallvard tells Mark:

"Actually my Mac monitor has a standard 15-pin connector on it! I made a  
cable for it myself to connect between the Mac and the monitor (saved  
quite a bundle!) and seem to remember that the pinout was the same as of  
the VGA standard.

> I don't see why it would not work. I have a  
> monitor here that isn't even multisync and it works fine in ST low medium  
> and high.

Cool! I suppose you made (or bought) a switch-box to select between  
"colour" and "mono" modes, then in colour mode you select "low" or  
"medium" from the desktop menu. At least that's what I had to do back in  
the days when I had an NEC Multisync II monitor.

May I ask which monitor you're using?

> The same principles behind mario becroft's vga adapter for st's  
> (not the galaxy card, but just the adapter). You'd just need some sort of  
> adapter for the mac video cable.

There are lots of circuits for these adapters around, so I'm going to  
make one myself, but like others have pointed out the monitor has to be  
able to handle the frequencies the ST sends out. Perhaps you were just  
lucky with the monitor you have, but I'd check the specs before actually  
trying it out in practice.

I don't know if this is true, but having messed around with

configuration menus that have to do with the display output (i.e. when installing Linux and you can choose between a wide variety of output options) I've seen warnings of not to select an output option which the monitor can't handle as it could permanently damage the monitor's input. Can this happen? I really don't want to mess around with my Mac monitor, as without it I don't have any way to even get online and ask for help."

Tony Cianfaglionone now asks about the VME port:

"What is it and how can it be used? I've heard it was ethernet but are there drivers and software to support it?"

Joshua Kaijankoski tells Tony:

"It's just an expansion slot for different upgrade cards like video and ethernet."

Edward Baiz adds:

"I know Mario Becroft was in the process of making a VME video card..."

Martin-Eric Racine adds:

"It is just another bus standard, along the same line as ISA or PCI busses found on PCs. VME has mostly been used on industrial computers and since Motorola (who manufactures most of the chips found in Ataris) also makes VME products, Atari decided to include such a bus on the TT and MEGA-STE.

So far, cards which offer drivers for Atari (either for TOS, MiNT, STinG or Magic) have included:

- \* graphics card (Crazydots, Nova, AlberTT, etc.)
- \* Ethernet card (Riebl, PamsNET, etc.)
- \* GPS-based reference clock

Currently, the only available VME product for the Atari is Mario Becroft's work-in-progress, the Galaxy Ethernet/graphics combo card. See:

<http://gem.win.co.nz/>

Noticing the recent volume of VME-bus related questions, I will be adding a new section to the page whose URL appears below (Atari ST Quick FAQ improvements are also upcoming, now that I got connected at home over broadband and can upload more freely)."

Don Wolfe asks about picture formats:

"I notice more & more picture files using .EXE instead of the .JPG format.. Can these EXE formats be read with a Atari ??"

Ken Springer tells Don:

"NO, the EXE file extensions means it (usually) it's a program file. If it's supposed to be a graphic, my best guess is it is a self extracting file of some type. But it could also be a program file such as a PRG, TTP, or TOS is a program file on the Atari.

I can't think of a logical reason to do that with a JPG since the

resulting file would be larger than the original JPG."

Don tells Ken:

"Thanks for the explanation on the EXE files, like you said they are probably self extracting Prg files....."

Neil Roughley adds:

"If they are, change the extenders to ZIP and then have STZip (or whatever you use) have a 'go' with them. You might get lucky and have the file's embedded executable ignored, going directly to the ZIP data. This worked for me on a number of occasions."

Hallvard Tangeraas tells Don:

"Don't quote me on this, but it may be that some .EXE files are in fact self-extracting .ZIP files, just as some .TOS files are in fact self-extracting .ZIP files!

Before you trash the file(s), try to rename it/them to .ZIP and see if you can decompress them. I seem to remember I did this once and it worked. Although you can't use the executables for a PC there may be other files you can use such as images or sounds. I believe I did this with a screen saver a while back and was able to extract some nice images, then trash the rest."

Hallvard now asks about ZIP utilities:

"In my quest for finding a proper way to decompress files directly from the TOS 2.06 desktop I've downloaded many Zip programs. I was given version 5.4 of "Unzip", but unfortunately this person didn't have the complete package including the docs, so I did some searching on the net.

I did actually find it at the Belgian FTP server:

`ftp://193.190.204.128/atari/archivers/unzip-5.4.tgz`

After decompressing I find a folder named "BIN" which I assume stands for "binaries". There are no extensions to the 4 files there, so I rename them with ".TTP" at the end.

But when I run them I get the following error messages "virtual memory exhausted".

I guess something's wrong with them as it happens to all 4 files

The "UNZIP540.TTP" that I got from this other Atari user on the other hand seems to work, but I'd really like to get the whole archive. Anyone know where it can be found?

I believe it's supposed to be at the Info-zip site, as that's where that version is for other platforms, but for the Atari ST platform I can only find version 5.1 there. Has someone compiled an Atari version from the sources unofficially and not made it publicly available?

The Info-zip site is located at:

`http://www.info-zip.org`"

Martin Tarenskeen asks Hallvard:

"Why not use STZIP 2.6 like most Atarians do?"

Martin Byttebier tells Martin T.:

"One good reason. STZIP contains more bugs then my wallet money. I really can't recommend anyone to use STZIP.

If you want a reliable archive use LZH. The only drawback of LZH is that many pc-users can't handle LZH."

Robert Schaffner adds:

"You are right, but what we should use?

LZH looks pretty good, but it produces larger archives than ZIP.  
[Are there] Any other bug-less ZIP available?"

Martin Byttebier tells Robert:

"For personal use I always use tar and gzip. If I must share the archives with other then I make use of the latest zip."

Grzegorz Pawlik asks about using video cards with NVDI:

"Can I use MagicVME graphic card (with \*TSENG TC6100\* chip) on my TT with NVDI 5 and MagiC 6.2? Will I have to use vmg-4000.prg (from NVDI package) to make NVDI work with that card? In the text files it is written that this program is for VT4000, and TC6100 is not mentioned.

I am asking because I don't know if I should buy that card or not. I cannot resign from using NVDI, because I need vector fonts and printer drivers."

Peter Schneider tells Grzegorz:

"I think it's worth a try.

I don't know if there was a TSENG chip 'better' than the ET-4000 when the appropriate NVDI was produced.

Notice there has been no difference between the ST, MagiCxx and TT (graphics card) versions since a number of updates.

You may try, but be careful when using VMG-4000 and begin with 'harmless' resolutions.

Could you please give some more details about that TC 6100 card? Was it developed for use in Atari computers or just PCs?"

Well folks, that's it for this week. Tune in again next week, same time, same station, and be ready to listen to what they are saying when...

PEOPLE ARE TALKING

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losing about \$30 per unit, a number that's unlikely to change much. "The consoles themselves they'll never make money on," he said.

So far, software sales for the new system have been unusually strong, with Microsoft reporting an average of three games sold for each console. That means the overall Xbox operation should be in the black in less than two years, which would be considered a solid performance by game industry standards, McPeake said.

"I think the tie-in rate is definitely encouraging," McPeake said. "I think by the fourth quarter of next year, they'll be able to make money in this division."

Besides the software numbers, it's also telling that many of the initial Xbox hits, such as shooting game "Halo" and racing title "Project Gotham Racing," were published by Microsoft, said Gartner analyst P.J. McNealy.

"A lot of the early sales were on first-party titles, which will help turn them cash-flow positive," McNealy said. "Clearly they're still not making any money yet on the hardware, but that's to be expected. You usually don't turn a profit on the hardware until year two or three."

Credit Suisse First Boston analyst George Gilbert estimated Microsoft's hardware subsidy at \$20 to \$40 per Xbox, putting the company on track to make money on the Xbox sooner than expected.

"It should start kicking in some time this year," he said. "You're in the razor-blade and razor business with game consoles. You make nothing on the razors, but you sell enough blades, and you've got a good business."

Besides, Microsoft's real intention with Xbox is more complex than just turning a profit. Microsoft plans to have an online gaming service built around the Xbox ready by the end of this summer. Once that service is up, Xbox will start to become a part of Microsoft's grand .Net strategy for online service, Gilbert said.

"The Xbox in the next two to three years is not really about making a lot of money on the bottom line," Gilbert said. "It's more about getting penetration in the consumer arena to accelerate the .Net initiative. The way we view the Xbox is as a delivery platform for .Net services."

Success from any perspective, however, depends on maintaining excitement about the Xbox as a game format, said McNealy.

"It's a marathon, not a sprint," he said. "Their start is strong, but they need to produce compelling games over the next four years, and that's not the easiest thing to do."

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## AOL in Talks to Buy Linux Distributor Red Hat

Media and Internet titan AOL Time Warner Inc. is in negotiations to acquire Red Hat Inc., a distributor of the alternative computer operating system Linux, the Washington Post reported citing unidentified sources familiar with the matter.

The talks were fluid and it was unclear how much AOL, which runs the biggest U.S. Internet service provider and the second-largest U.S. cable television system, would pay for Red Hat, the newspaper said.

Red Hat is the leading distributor of Linux, which unlike software such as rival Microsoft Corp.'s Windows operating system, is an "open source" platform that anyone can change to suit their needs.

Spokespeople for the three companies declined to comment on the negotiations, the newspaper reported.

Linux has gained growing favor with businesses, especially to power the heavy-duty server computers that dish up Web pages and run corporate networks.

The attempted acquisition is the latest indication that AOL is seeking alternative software to that made by rival Microsoft, the maker of Windows which runs 90 percent of the world's personal computers, the Washington Post said.

To counter Microsoft, AOL could couple its Internet service with Red Hat's operating system technology and could be configured to override Windows while launching a version of Linux, sources told the newspaper.

## AOL Not Bidding for Red Hat

AOL Time Warner apparently is not making a bid to buy Linux manufacturer Red Hat, said sources familiar with the matter.

On Saturday, the Washington Post reported that the media giant was near to cutting a deal with Red Hat in a competitive strike against Microsoft.

Sources familiar with the situation emphatically insisted the two companies are not near an acquisition deal, nor have they discussed one.

An AOL Time Warner spokeswoman, as a matter of company policy, would not discuss the merger rumor, and Durham, N.C.-based Red Hat could not be reached for comment because of the Martin Luther King Jr. holiday. A Microsoft spokesman also declined to comment.

Still, even if the two companies are not considering a merger, AOL Time Warner could license Red Hat for use on PCs or other devices for use with its online service. The AOL service currently is available only for Windows and the Macintosh, although the Netscape supports Linux.

Linux is a popular Unix derivative developed in 1991 by Linus Torvalds. Like Windows, Linux runs on Intel-based PCs, but uses a different licensing mechanism. While Microsoft controls the source code to Windows and charges a fee for every copy sold on PCs, Linux uses an "open source"

model, where companies also have the right to install as many copies of the operating system as they wish.

On the surface, competing with Microsoft in the operating system market would seem to make sense, especially as AOL Time Warner increasingly knocks heads with the software giant in the market for Web services leveraged off the desktop.

Gartner predicts that next year 80 percent of companies developing platform software, such as operating systems, will support Web services architectures.

But Linux, which has some traction in the server market has negligible share on the desktop, making the acquisition of a company like Red Hat a potentially long-term losing strategy, analysts warn.

"Linux in the desktop market in the U.S. is basically a non-starter," said Chris LeTocq, industry strategist with Sage Circle. "The applications in the U.S. tend to be apart from servers tend to be OEM set-top boxes. For desktop or set-box use in the U.S., it makes more sense to get an OEM license. There's no need to purchase a company that's in the distribution services business."

Outside the United States is "another story," LeTocq said.

A Linux OS and online service package could be sold for much less than Windows because of the licensing model, also leveraging AOL's monthly billing model.

"A desktop vendor in Latin America or especially China, if they can save 50 to 60 bucks on a PC that's a big deal," LeTocq said. "It's conceivable that a Linux alliance with a media company could work in that environment."

The merger rumors come as competition intensifies between AOL Time Warner and Microsoft. Earlier this month, for example, the media conglomerate responded to Microsoft's .Net Alerts service by launching AOL Alerts. Both services use instant messaging to deliver customized stock quotes, auction updates or other information to computers, handhelds and cell phones, among other devices.

The companies started knocking heads openly last summer, when negotiations collapsed to include a version of AOL software with Windows XP. AOL Time Warner responded by cutting separate deals with PC makers that ensured desktop placement alongside Microsoft's MSN.

While the AOL service has grown its subscriber base, MSN continues to add members more slowly. AOL subscribers swelled from 9 million in autumn 1997 to 33 million at the beginning of this year. In December alone, AOL gained 1.9 million new subscribers, the company said. MSN, by contrast, floundered for years, going from 2.5 million subscribers in 1997 to 7.7 million in December.

But the AOL service is largely dependent on Windows, where Microsoft increasingly leverages its monopoly operating system against AOL Time Warner.

Windows XP, for example, has multiple hooks--messaging, media playback, online authentication and photo processing, among others--that tie back to MSN.

"Microsoft has a clear advantage with Windows XP and driving traffic to MSN," said Gartner analyst Michael Silver. "It's the foundation for their Web services strategy."

In the future, Microsoft plans to offer paid services through its MSN Web site, some which are expected to require use of the online service component. Like AOL, Microsoft already charges a monthly fee for MSN online access, something it is expected to do with MSN Web services leveraged off the desktop.

From this perspective, AOL Time Warner could benefit from a Linux deal, particularly as Microsoft sees some real gains from its desktop-tied-to-the-Web strategy.

Internet Explorer, which is integrated into Windows XP and available separately for older Microsoft operating systems is a good example. Internet Explorer 6 replaces the more typical "page not found" with an MSN search page. That tactic helped Microsoft claim that MSN had beat out Yahoo for Internet searches during November.

But Market researcher Jupiter Media Metrix, which tabulated the data, concluded the "page not found" redirections accounted for about half of the MSN searches. MSN search pages led Yahoo in November, 36.6 million to 31.9 million visitors, according to Media Metrix.

"If you look at how much traffic the auto-search redirection generated from MSN, it's almost 50 percent," said Media Metrix analyst Michael Gartenberg. "That's a huge number they essentially picked up for free by being the default."

Whether AOL is looking at Linux or not, the company must find away to neutralize Microsoft's desktop advantage, say analysts

"As long as Microsoft can drive services off the desktop, they're going to have an advantage over AOL," Silver said.

#### AOL's Netscape Sues Microsoft

Netscape, AOL Time Warner Inc.'s Internet browser unit, sued Microsoft Corp. on Tuesday seeking damages for violations of antitrust law found in a landmark government case against the software giant.

The seven-count lawsuit, filed in U.S. District Court for the District of Columbia, said the once-dominant Netscape browser suffered harm through Microsoft's unfair promotion of its own Internet Explorer browser.

A U.S. appeals court in June upheld findings in the U.S. Justice Department's suit against Microsoft that the company illegally used its monopoly in personal computer operating systems to maintain its dominance.

The Justice Department and nine states joining that case have reached a proposed settlement. Nine other states are seeking stiffer penalties against the software giant.

Microsoft bundled the Internet Explorer browser with its operating system, leading to the government's suit.

The Justice Department and states had argued at trial that Microsoft feared Netscape's popular browser could evolve into a computer platform that could rival Microsoft's Windows operating system.

Microsoft's Internet Explorer now dominates the browser market.

Netscape's suit seeks to prevent further anti-competitive behavior and asks for treble damages, to be determined at trial, to make up for lost browser licensing revenue and market share.

Netscape was acquired by Internet service provider AOL in 1999. AOL then acquired the cable television and media empire of Time Warner.

'Netscape's lawsuit is a logical extension of the findings entered by the District Court and unanimously affirmed by the Court of Appeals that Microsoft thwarted competition, violated the antitrust laws and illegally preserved its monopoly at Netscape's expense," AOL General Counsel Randall J. Boe said in a statement.

A Microsoft spokesman had no immediate comment on the lawsuit.

#### Judge Stays Out of Microsoft, AOL Tiff for Now

The federal judge overseeing the government antitrust case against Microsoft Corp. has declined to get immediately involved in a dispute between the software giant and rival AOL Time Warner Inc.

District Judge Colleen Kollar-Kotelly said in an order issued late Thursday that the issues are narrow enough to be resolved without her intervention. She nevertheless ordered that AOL report to her Monday morning if there is still no agreement.

Microsoft and AOL traded legal jabs on Thursday, with the software giant claiming AOL hasn't fully revealed how it has aided the nine states seeking tougher sanctions against Microsoft for violations of antitrust law.

The U.S. Justice Department and nine other states in the case have signed on to a proposed settlement.

Microsoft says AOL has failed to comply with subpoenas that require it to reveal contacts with the states demanding the tougher measures.

AOL says it will agree to a faster schedule to produce requested documents but has criticized Microsoft for breaking off talks to resolve certain procedural disputes.

Earlier this week, AOL launched a private lawsuit alleging Microsoft's unfair business practices harmed its Netscape Web browser subsidiary.

Kollar-Kotelly made note of the tension between the companies in her order.

'(T)he aspersions cast in the parties' pleadings as to the respective motivations of the opposing party do not advance the resolution of the issues presently before the court, and in truth, only serve to lengthen needlessly the parties' filings," the judge said.

## Yahoo To Put Price On Searches

Yahoo plans to unveil a pay-per-view search product Wednesday, the latest in a string of premium services aimed at offsetting a sharp decline in its online advertising.

Dubbed "Yahoo Premium Document Search," the service is designed to expand on an existing agreement with search technology provider Northern Light, which last year created a premium search engine for Yahoo's corporate clients.

"This fits into our desire to diversify revenue and more effectively monetize search and directory," said Scott Gatz, vice president of search and directory for Yahoo. Terms of the deal were not disclosed.

The move comes as Yahoo launches a flurry of money-making schemes in a bid to revive its revenues, which dipped to \$717 million in 2001 from \$1.1 billion the previous year.

Last November, Yahoo struck a deal with paid search service Overture Services to integrate pay-for-placement listings into its search results. In addition, Yahoo has begun to charge visitors for a smattering of services, including more e-mail memory, real-time stock quotes, online personals and auctions.

Although the new search service has not officially launched, a preview available to Web surfers Tuesday offered a glimpse of what's to come.

According the site, Yahoo plans to charge consumers between \$1 and \$4 to retrieve files from a Northern Light's specialized database of some 25 million research documents culled from 7,100 publications, including academic periodicals. Yahoo also expects to offer a "Premium Discount Search" option of 50 documents a month for \$4.95.

Search results on the preview site are identical to those found on the paid search service offered on Northern Light's home page.

Northern Light, which sold its premium search business and some other assets to enterprise software company Divine on Tuesday, declined to discuss the deal.

"We are not able to talk about that at this point," said Camile Roberts, a spokeswoman at Northern Light. "We have always offered premium content on the Northern Light site."

## Aimster Changes Name, Adds Fee Service

File-swapping company Aimster has renamed its service and started a drive to turn free users into paying customers.

Aimster founder Johnny Deep said he transferred the Aimster name to America Online last week and rebranded the company Madster.com. In May, Aimster lost the rights to its domain name after an arbitration panel decided the name violated the AOL Instant Messenger (AIM) trademark.

Madster remains free, but the company has added a subscription service that offers features such as better connectivity and recommendations from other members.

Despite handing over the Aimster name, the company is not free of the courts. It's still caught in legal struggles with trade groups for the movie industry, recording industry and music publishers, which have filed separate lawsuits alleging the file-swapping company violated their copyrights.

AOL spokesman Andrew Weinstein said that although the company is no longer pursuing damages and attorney's fees, the "parties have not resolved their disputes with respect to copyright infringement and related matters." Weinstein added that the AOL Time Warner division does not plan to use the Aimster trademark.

The Madster site provides software upgrades and a subscription service, dubbed Club Madster, for \$4.95 per month. The company is hoping to attract new and former Aimster fans by initially offering a second month of membership for free.

"The service hasn't changed an awful lot," said Deep, who changed his title from chief executive of Aimster to president of Madster.

#### Napster Lawsuit Suspended, For Now

Judge Marilyn Hall Patel executed an order Wednesday suspending the major record labels' copyright infringement case against file-swapping pioneer Napster for 30 days. The order is set to expire February 17th.

Recording Industry Association of America (RIAA) president Hilary Rosen issued a prepared statement Wednesday saying that since Napster relaunched its new service a few weeks ago, those affiliated with the RIAA understand the company has limited its repertoire solely to licensed music.

"Resolving the lawsuit may now be feasible," Rosen stated.

The lawsuit has plagued Napster almost from the company's inception three years ago. Experts close to the case speculated that the suspension, which was supported by Napster and four of the five major record labels, may be a result of changing strategies on the part of the labels, following allegations that they did not negotiate licensing contracts in good faith with the retooled, subscription-based Napster.

Analysts suggested that the labels may have pursued the suspension in order to dissuade Judge Patel from delving into whether tenets of good faith were breached during negotiations.

Only EMI declined to support the suspension, though a spokesperson did intimate that the label -- the parent company of Virgin Records America and Capitol Records -- was involved in settlement talks with Napster.

In addition, the U.S. Department of Justice (DOJ) disclosed last October that it was investigating the major labels for possible antitrust violations in the burgeoning online market.

Aram Sinnreich, a senior analyst at Jupiter Media Metrix, told NewsFactor in an earlier interview that the Justice Department potentially has a very good argument against the major labels.

The labels show evidence of exercising "a demonstrable amount of control that seems much greater than what the technology calls for," Sinnreich told NewsFactor. "It seems they could be more liberal in their distribution [of digital music] without losing potential market revenues and market share."

Sinnreich cautioned that it is all still a very gray area, and that it is tough to say whether the DOJ could put together a viable case.

At the same time, Sinnreich said, the investigation might lead to self-policing actions on the part of the Big Five labels in order to avoid further scrutiny, which could be "a good thing" for Napster and its peers.

Sinnreich went on to say that Napster is in a race against time. The company must stay capitalized, maintain its subscriber base and continue to generate interest in its survival.

Napster president Konrad Hilbers sounded optimistic after yesterday's announced ruling. He told news sources that he is confident the litigation will conclude within the next several weeks.

#### U.S. Plans 'Do Not Call' List for Telemarketers

U.S. consumers tired of getting pesky telemarketing calls at home could opt out under a new rule proposed Tuesday by the Federal Trade Commission.

Violators would be subject to fines of \$11,000 per count.

The FTC said it would seek to modify existing telemarketing regulations to set up a national "do not call" list of consumers who do not wish to receive telephone sales pitches as they are sitting down to dinner or sleeping in on weekends.

Consumers could put their phone numbers on the list by calling an automated toll-free number. Telemarketers would be required to check the list monthly and ensure that they do not call those numbers.

Current federal law requires telemarketers to honor consumer requests not to be called back, but provides no way to prevent telemarketers from calling them up in the first place.

Howard Beales, head of the FTC's consumer-protection division, said the agency developed the rule in response to increasing consumer complaints.

"There's been an enormous amount of concern expressed by consumers about calls," Beales said.

Telemarketers would also be prohibited from subverting caller-ID systems or sharing credit card numbers and other billing information, a practice the FTC said could lead to fraud.

The program would cost roughly \$4 million to \$6 million to set up, and less to operate on a yearly basis, Beales said.



Any new rule will not likely take effect for at least a year as FTC officials take comments from the public and develop specifics.

During that time the FTC will likely hear objections from the Direct Marketing Association, a trade group that includes telemarketers.

A DMA lobbyist said the rule would infringe on free-speech rights and impose a heavy burden on telemarketers, who create more than 6 million jobs and \$668 billion in sales nationwide.

'I'd say we would not support it the way it is right now," said Jerry Cerasale, DMA senior vice president for government affairs.

Beales said the restrictions would not run afoul of the Constitution because the government was not prohibiting commercial speech but merely allowing consumers to opt out of sales pitches.

'The choice is being made by consumers. We're not saying, 'Don't call.' It's consumers saying, 'Don't call," he said.

Current regulations prohibit telemarketers from calling before 8 a.m. or after 9 p.m., and require them to honor consumer requests not be called back.

In addition, 20 states and the DMA maintain do-not-call lists of their own.

A federal list would be more effective than state laws that vary widely, Beales said, or the DMA's list, which applies only to members. It would also be more convenient for consumers to access, he said.

The rule would not block all types of sales calls.

Political groups and nonprofits fall outside of the FTC's jurisdiction, Beales said, as do certain industries like banking and telecommunications, which are subject to Federal Communication Commission rules.

Beales said FTC officials have spoken with the FCC about beefing up their telemarketing rules.

Intrastate telemarketing calls would also be exempt from complying with the new rule.

Commercial fund-raisers working to raise charitable donations would be required to check the do-not-call list, however.

#### Alleged eBay Hacker Wants Lawyer Back

The case of the alleged eBay hacker took another plot twist Wednesday afternoon when the former Los Alamos National Laboratory employee asked to have his lawyer back just hours after dismissing her.

In the past week, Jerome T. Heckenkamp--accused of breaking into the computer networks of eBay, Exodus Communications and other companies--has filed to put himself back into federal custody, asked to dismiss his attorney, noted cyber lawyer Jennifer Granick, and now has requested that she be allowed to represent him once more.

"We've had a change in circumstance again," U.S. District Judge Patricia V. Trumbull said dryly, when Heckenkamp, 22, returned to the front of the courtroom after a three-hour recess.

Standing in the U.S. District Court of Northern California in the orange and gray togs of the Santa Clara County Department of Corrections, Heckenkamp said he had decided that he could work with Granick after all.

"We can both play an active role in my case," he said. "If I can have an active role as I want, then we can work together."

Granick, the clinical director at Stanford University's Center for Internet and Society, wasn't present at the afternoon hearing, but said in an e-mail that she and Heckenkamp plan to work as a team.

"He realized that his lawyer will present his best defense more effectively than he'd be able to do alone," she said.

Heckenkamp has been charged with seven counts of accessing computers without authorization and eight counts of intercepting computer communications. The charges stem from intrusions by a hacker known as MagicFX into the networks at eBay, Exodus Communications, Juniper Networks, Lycos, E\*Trade and Cygnus throughout 1999, according to an indictment filed in December 2000.

The indictment claims that Heckenkamp is MagicFX.

In addition to the 15 charges, the U.S. attorney's office for the Northern District of California charged Heckenkamp with witness tampering. Heckenkamp has also been indicted by the U.S. attorney's office for the Southern District of California in San Diego on 10 additional charges of computer intrusion.

The separate charges in two venues have complicated Heckenkamp's defense. The \$50,000 bail posted by a friend covers his release in both venues, but even if Heckenkamp gets Judge Trumbull's release of the money, he will have to repeat the efforts in San Diego as well.

Heckenkamp's change of mind derailed his efforts to talk his way to freedom without bail. The arguments on the issue, slated for that afternoon, got pushed back to the next morning, when his reinstated attorney could once again be present.

#### Amtrak Offers Passengers Free Surfing

Amtrak passengers on three U.S. train routes will have free access to the Internet using built-in computers in coach and cafe cars, program sponsors Compaq Computer and Yahoo! announced Wednesday.

Passengers will be able to surf the Web via Compaq Pocket PCs equipped with wireless modems from train cars distinguished by a purple-and-yellow Yahoo! advertising banner.

The three Amtrak routes -- Washington, D.C., to Boston, Massachusetts; Sacramento and Oakland to San Jose, California; and Chicago, Illinois, to Milwaukee, Wisconsin -- will make the free Internet service available for

at least six months.

Compaq spokesperson Stacey Paull told NewsFactor that while the company does not have a concrete estimate of how many Amtrak customers will use the new service, it is an opportunity to introduce its computers to potential new customers.

"Of course, we want people to get to know and use our devices," said Paull.

Cyndi Darlington, Amtrak assistant vice president of sales and marketing, said in a statement that the two companies are a perfect match for the train project.

"More and more people are choosing to travel by train, and by combining the experience with the latest technology we are making the train an even more productive and stress-free way to travel," said Darlington.

Amtrak trains serve more than 500 communities in 46 states over a 22,000-mile route system.

Amtrak spokesperson Karina Van Veen told NewsFactor that while the company cannot disclose the price of outfitting three train cars for wireless Internet, it does anticipate a revenue stream.

"Internet access is something customers have been asking for, particularly the business travelers," Van Veen said. "Internet access will increase people's desire to travel on trains -- particularly business travelers, because it will allow them to check e-mail and log on, something you can't do aboard a plane."

Van Veen noted that Internet-ready trains could be added to more routes and that the program, set to run until April, could be extended.

"It depends on how well it is received by our guests. We serve about 65,000 people per day, but the service is only aboard three trains," Van Veen said.

Yahoo! sponsored similar free wireless Internet surfing throughout 1999 and 2000 in New York and San Francisco taxicabs, also outfitting the cars with its advertisements.

A similar program recently was offered on commuter planes in Japan.

#### Laid-off Techies Invoke Old Law

A relic of the recessions of the 1970s and 1980s may help the laid-off techies of today.

The Worker Adjustment and Retraining Notification Act, which requires companies to give employees 60 days notice before mass layoffs or a plant closing, was originally intended to help blue-collar workers deal with plant shutdowns. Now, laid-off tech workers are finding out that it can apply to them as well, and they're taking action.

The WARN Act could become an issue for the tech sector as an increasing number of companies shed workers, lawyers say. So far, workers have filed

suits against several companies, including bankrupt grocery e-tailer Webvan and out-of-business information-technology services provider Inacom.

Lawyers for Webvan and Inacom did not return phone calls.

"There's a common misconception that protections of WARN extend only to blue-collar employees, when in fact the protections extend to all employees of companies with more than 100 people," said attorney Adam Levin, a partner at the Labor & Employment group at Mitchell Silberberg & Knupp, in Los Angeles. "There are a considerable number of high-tech companies (that have) given WARN notices."

For instance, so far this year in California, 16 companies have given notice, and roughly one-third of those are in the high-tech sector, according to the Web site for the state of California's Employment Development Department. Last year, companies filed about 400 notices, which include multiple filings by individual companies. Each state has its own list.

Companies that haven't given proper notice are being taken to task by those employees.

Probably more commonly known as the plant-closing act, the law was passed in 1988 and went into effect in 1989. It was originally intended to give factory workers some notice before companies shut down a plant, and to help local authorities prepare themselves for the strain the unemployment could cause to the local economy.

But the specifics of the law make it applicable to many high-tech companies.

It requires companies with more than 100 workers to give employees at least 60 days notice of a plant closing or mass layoffs. A plant closing is defined as the shutdown of a single site in which 50 or more employees lose their jobs. Mass layoffs occur when a company lets go 500 workers over 30 days, or 33 percent of the work force, if that means at least 50 people.

Violators of the act can be forced to pay damages and civil penalties. For former employees, that can mean back pay.

That's what former employees of at least two high-tech companies are hoping for. Former Webvan and Inacom employees have filed suits against their respective companies, which have both gone bankrupt.

Employees aren't the only ones taking an interest; last year the Connecticut attorney general filed suit on behalf of 106 employees of Walker Digital, an intellectual-property lab owned by Priceline.com founder Jay Walker.

The technology industry has seen its fair share of layoffs over the past year. And some have come without the sort of notice that would seem to be required under this act; it's not uncommon to hear of entire departments being told at 9 a.m. to have their desks cleaned out by lunch. So why haven't there been more complaints about violations?

"Before this past year when all the layoffs started happening, people weren't even paying attention to WARN. A lot of people weren't even aware it was an issue," said attorney Wendy Lazerson, a partner in the San

Francisco office of Holland & Knight. "So some employees signed releases that gave waiver to all claims."

Now that the layoffs have picked up, more employees and companies know about the act. But unfortunately for the workers, the few exceptions specified in the act apply to many tech company layoffs.

The biggest factor for them is probably size. While start-ups have gone belly-up right and left, many are small and therefore don't meet the employment requirements of the act.

The other exceptions go to the heart of the high-tech world. The act excuses companies for which the mass layoffs are an "unforeseen business event." In a typical case, a key customer suddenly announces it is canceling a contract. With no advance notice from that customer, the company can't be expected to give employees advance notice.

"Webvan took the position that it was unforeseen and could not have been anticipated," Lazerson said. "The employees are saying, 'Hey you must have seen this coming, just look around.'"

Another exception is designed to help a company possibly prevent the layoffs in the first place. If a company is actively searching for funding, it's not required to give notice until absolutely necessary.

"Giving the notice can be a self-fulfilling prophecy, particularly in high-tech. Suppliers get concerned, you may lose employees who you'd hope to keep," said Luis Salazar, a bankruptcy attorney with Greenberg Traurig in Miami. Companies are given more time "if they think they can postpone the layoff or put it off altogether if they can get new money," he said.

But some companies simply plead ignorance.

"Companies that tend to violate are usually companies that are recent start-ups or are owned by one or two entrepreneurs who have a company large enough to qualify but which may not be very large," said Mark Fancher, senior staff attorney at the Maurice and Jane Sugar Law Center for Economic and Social Justice, which is representing the Inacom employees. The Sugar Law Center is part of the National Lawyer's Guild project that focuses almost exclusively on WARN Act cases.

"A lot of companies that don't comply don't do it because they may not have ever heard of it," Fancher said. "Or they read through it and presume because of ignorance or arrogance that they won't have to comply or will get away with it."

#### Germany Evicts US Nazi Propagandist From Web Sites

Germany successfully evicted on Friday a U.S. cybersquatter from Web sites carrying the names of German government ministries which then directed surfers to banned neo-Nazi material.

The Federal Republic of Germany had brought a case against Nebraska-based firm RJG Engineering Inc after the latter registered [verfassungsschutz.org](http://verfassungsschutz.org) and [bundesinnenministerium.com](http://bundesinnenministerium.com), .net and .org, which translate as "Office for the Defense of the Constitution" and "'Ministry of the Interior" in English.

An arbitrator appointed by the World Intellectual Property Organization (WIPO) to hear the case ruled the company had no legitimate interest in the domain names and had been using them in bad faith.

Material provided by Germany showed that two of the sites directed visitors to a Web site of a U.S. Nazi group run by Gerhard Lauck, RJG's president, it said.

Such propaganda is illegal under German law.

The WIPO arbitrator ruled that Germany had trademark rights to the names which are well known in Germany as representing the government offices.

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